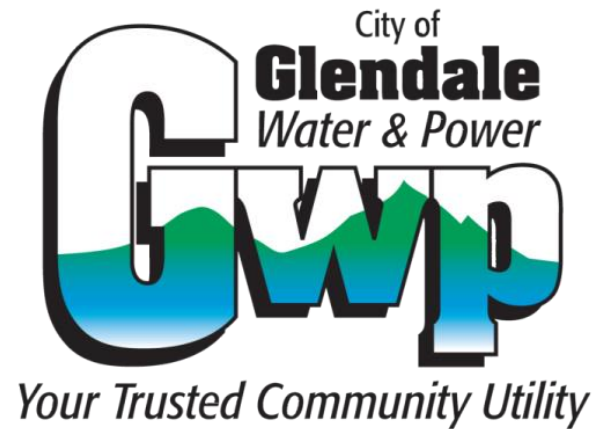


# REQUEST FOR PROPOSAL

## OWNER'S ENGINEERS SERVICES FOR ENGINEERING, CONSULTING, AND TESTING



CITY OF GLENDALE, CALIFORNIA

October 27, 2020

Glendale Water & Power

Electrical Engineering Section

141 N. Glendale Avenue, Suite 420

Glendale, CA 91206-4496

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# **Glendale Water & Power**

## **Request for Proposal**

### **OWNER'S ENGINEER SERVICES FOR ENGINEERING, CONSULTING, AND TESTING**

#### **I. OBJECTIVE**

The City of Glendale (City) through its Water and Power Department (GWP), is soliciting proposals (Proposals) from interested engineering firms (Proposers) specializing in engineering and related services including but not limited to consulting, planning, design, testing, and modeling services of the electric system, to act on behalf of the City as "Owner's Engineer" and work on various City electrical projects and activities for GWP's Electric Services and Power Management Services Divisions. The Proposers are invited to submit Proposals describing their qualifications and experience to perform engineering and design services for the following:

- Design, modeling, and analysis of Power Distribution Systems and Power Transmission Systems.
- Power Distribution System studies and Power Transmission System studies including power flow analysis, power factor correction, and load balancing.
- Power System Grounding studies and design.
- Project design and preparation of specifications for substation design, upgrade, reconstruction, voltage conversion, and relay and metering upgrades.

- Communications design and testing for equipment monitoring and control, including Automatic Generation Control, SCADA, and interconnection with LADWP and Burbank.
- Interconnection design and monitoring for Distributed Energy Resources, such as solar and fuel cell sources.
- Wiring and schematic diagrams for “As – Is” conditions at natural gas, combined-cycle, ICE (Internal-Combustion Engine), other generating facilities, and substation facilities.
- Support design efforts to implement GWP’s Electric 5-year Capital Improvement Program (CIP).
- Assisting/Training Customer Service Planning on industry best practices in designing systems and interconnecting to modern Distributed Energy Resources / Smart Grid Systems.
- Wildfire Mitigation Engineering Design.
- Engineering design Distributed Energy Resources / Smart Grid Systems and related system designs.
- Engineering design Utility Owned Solar/Energy storage and Distributed Energy Resource (DER) / Smart Grid System.

Proposers will be evaluated based on the Request for Proposals (RFP) process. The City will enter into a Professional Services Agreement (PSA or Contract) with the qualified and selected Proposer(s) (Owner’s Engineer(s)) to render the services described herein on an as-needed basis. The City may choose to enter into a PSA with a single Owner’s Engineer or multiple PSAs with more than one Owner’s Engineer.

The Proposers shall demonstrate extensive experience in designing and engineering the types of projects previously mentioned within the last three years, and provide documentation demonstrating that the projects provided as reference were completed in a timely manner and within budget.

## **II. BACKGROUND**

GWP provides electrical services to over 89,000 residents and businesses in the City. The City's electrical system consists of a 262 MW net power plant, 12 distribution substations, 2 receiving substations, and 550 miles of overhead and underground lines throughout the City.

The list of Capital Improvement Projects (CIPs) consists of 4 kV to 12 kV distribution voltage conversions, substation upgrades, procurement of a mobile substation, protective relay upgrades, communication upgrades, and other projects to modernize and maintain a safe and reliable electric system.

As GWP customers continue to install Distributed Energy Resources (DERs), the Owner's Engineers will also be tasked with performing a detailed analysis and testing of all the distribution feeders and associated protective relays.

GWP intends to accomplish these, and other, Projects with an internal engineering staff supplemented by the selected Owner's Engineering firm(s).

### **III. SCOPE OF SERVICES**

The Owner's Engineer(s) will be under Contract with the City for the purposes of augmenting the capacity of GWP's Engineering Staff, both for managing peaks in work load and for providing technical expertise not-supported in-house.

As Owner's Engineer(s) on specific projects, the Owner's Engineer(s) shall provide consulting, planning, design, testing and modeling services for the following projects including additional projects as identified by GWP staff:

- 4 kV to 12 kV distribution voltage conversion upgrade.
- Substation capacitor bank location study and installation.
- Substation circuit breaker replacement program.
- Protective digital relay equipment upgrade, study, installation and test procedures.
- Substation mobile transformer specification and procurement.
- Substation transformer replacement program.
- Energy Storage Project(s).
- Wildfire Mitigation Engineering Design of Distribution and Sub Transmission Systems in regards to wildfire mitigation, detection, de-energization, protections, control systems and system hardening (including use of composite cross arms, composite or alternate material poles, tree wire retrofit and related designs.
- Assisting/Training Customer Service Planning on industry best practices in designing systems and interconnecting to modern Distributed Energy Resources / Smart Grid Systems and related system designs. Train GWP staff in industry

best practices for Customer - Service / Planning Systems Designs and applicable national & local codes and ordinances.

- Utility Owned Solar/Energy storage/Distributed Energy Resource (DER) / Smart Grid System Projects.
- Electric Vehicle Charging Station design and study.
- Act as the project manager for the installation of the SEL's ICON device in all GWP substations for protection communication, and SCADA. Provide ICON training.
- Act as the project manager for Implementation of SEL's TEAM software for disturbance monitoring.
- Upgrade the existing GWP's Relay standards based on SEL relays.
- Train GWP 's Engineering staff on the latest SEL protection and communication devices.
- Provide and or review relay settings for various GWP projects.
- Provide programming for relays, communication devices and SCADA.
- Perform as-needed civil engineering services, which includes but is not limited to: Preliminary Site Analysis, Environmental Design, Feasibility Studies, Grading Design and Earthwork Management.
- Perform as-needed mechanical engineering services which includes but is not limited to:  
  
HVAC System Analysis and Design, Plumbing System Analysis and Design & Fire Protection System Analysis and Design.



- Perform as-needed structural engineering services which includes but is not limited to:  
 Structural Analysis and Design, Foundation Analysis and Design, Building Component Analysis and Design, Retaining Wall Design, Wind and Seismic Capacity Assessment, building Code Compliance, Failure Analysis, Mechanical Vibration Analysis and Mitigation Design.
- Perform as-needed environmental engineering services which includes but is not limited to:  
 Air quality compliance and engineering controls/design, storm water compliance and engineering controls/design, landfill gas mitigation and engineering controls/design.

#### **IV. GENERAL QUALIFICATIONS INFORMATION**

1. All Proposals and related submittals will become the property of GWP.
2. Submit a price/cost schedule for consulting services, including hourly rates.
3. A Proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions are not called for, or other irregularities that may constitute a material change to the Proposal.
4. Proposal Validity – Proposals must be valid for a period of at least twelve (12) months from the closing date and time of this solicitation. Proposals may not be withdrawn after the submission date.

5. GWP shall not be liable for any pre-contractual expenses incurred by Proposers in the preparation of their Proposals. Proposers shall not include any such expenses as part of their Proposals.
6. Right to Audit – Following execution of an agreement and for a period of three years following the completion of the services, GWP will have the right to audit the successful Proposer's invoices and all supporting documentation generated in performance of services under the Contract.
7. GWP reserves the right to:
  - Reject any or all Proposals.
  - Select the Proposal(s) most advantageous to GWP.
  - Verify all information submitted in the Proposals.
  - Withdraw this RFP at any time without prior notice and furthermore, makes no representations that any contract will be awarded to any Proposer responding to this RFP.
  - Amend this RFP.
  - Award one Contract for all herein-referenced tasks to one Proposer, or to apportion and/or allocate the tasks among two or more Proposers as GWP may deem to be in its best interest.
  - Negotiate the final Contract with any Proposer(s) as necessary.
  - Amend the final Contract to incorporate necessary attachments and exhibits or to reflect negotiations between GWP and the successful Proposer(s) selected to act as the Owner's Engineer(s).

## **V. PROPOSERS QUESTIONS, REQUESTS FOR CLARIFICATIONS, AND REQUEST FOR REVISIONS**

In the event that the Proposer(s) has any questions, requests for clarification, or wishes to propose any revisions of this RFP or its attachments, the Proposer(s) shall notify GWP with its concerns no later than 5:00 PM on Tuesday, November 24, 2020. GWP's responses will be delivered in the form of an addendum to this RFP and shall be distributed to all Proposers.

Questions regarding any aspect of this RFP should be directed via email only to GWP's Project Managers. Questions submitted via any other method (e.g., mail, phone call) will not be considered. The Project Managers are:

Hovsep Barkhordarian, Principal Electrical Engineer

Bryan Salazar, Administrative Analyst

Glendale Water and Power

141 N. Glendale Ave., Suite 420

Glendale, CA 91206

(818) 550-4580

[hbarkhordarian@glendaleca.gov](mailto:hbarkhordarian@glendaleca.gov)

[bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov)

## **VI. PROPOSAL INSTRUCTIONS**

### **A. Packaging**

Proposals shall be enclosed in a sealed package(s). Proposer's name and address shall appear in the upper left-hand corner of the package. All Proposals shall be identified with "Owner's Engineer Services for Engineering, Consulting, and Testing" legibly written on the outside of the package(s). If multiple packages are submitted, each package must be legibly numbered (i.e. 1 of 3, 2 of 3, etc.).

### **B. Submittal**

Proposals shall be emailed in PDF format to [hbarkhordarian@glendaleca.gov](mailto:hbarkhordarian@glendaleca.gov) and [bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov) to meet the Proposal Deadline, but must be followed-up by one original and two (2) hard copies which must be received at the address listed below no later than 24 hours of the Proposal Deadline date and time. Due to COVID-19 closures, all hardcopies must be delivered via Mail or FedEx.

Hovsep Barkhordarian, Principal Electrical Engineer

Bryan Salazar, Administrative Analyst

Glendale Water and Power

141 N. Glendale Ave., Suite 420

Glendale, CA 91206

(818) 550-4580

[hbarkhordarian@glendaleca.gov](mailto:hbarkhordarian@glendaleca.gov)

[bsalazar@glendaleca.gov](mailto:bsalazar@glendaleca.gov)

Proposals are due no later than 5:00 PM Pacific Time, Friday, December 18, 2020.

Proposals received after the deadline will not be considered.

GWP will not be responsible for submittals that are delinquent, lost, mismarked, sent to an address other than the address provided above, or sent by mail or courier service and not signed for by GWP.

### **C. Response Requirements**

Proposals must be prepared simply and economically, providing a straightforward, concise description of methodology and approach to satisfy the requirements of this solicitation. Emphasis should be on completeness and clarity of content with sufficient details to allow for accurate evaluation and comparative analysis.

Proposals shall be clear, concise, accurate, and comprehensive. Excessive or irrelevant materials will not be considered.

The hardcopy Proposals shall be three-hole punched and placed in separate three-ring binders. They shall be organized in separate sections tabbed with corresponding letters and related headings in the order presented below:

#### **1. Executive Summary Letter**

This letter shall be a brief formal letter from the Proposer(s) that provides information regarding the Proposer(s) and their ability to perform the required tasks of this RFP.

This letter must include the following information: complete legal company name (as it should appear in a contract), address, contact person name and title, telephone number, and e-mail address. This letter shall identify all materials and enclosures being forwarded in response to this RFP.

The letter must be signed by an individual authorized to bind the Proposer(s) or by two corporate officers authorized to bind the Proposer entity/entities as set forth in the California Corporations Code. A Proposal submission with an unsigned Executive Summary Letter will be considered non-responsive.

## 2. Validity of Proposal

Responses to this RFP shall be valid for a minimum of twelve (12) months. Submissions not valid for at least twelve (12) months will be considered non-responsive. The Proposer(s) shall state the length of time for which the submitted Proposal(s) shall remain valid.

## 3. Statement of Insurance Compliance

Proposers shall state in their Proposals their willingness and ability to provide the required insurance coverage and an Accord insurance form. Insurance requirements are listed in the Sample Insurance Requirements, attached as Exhibit B. Insurance Requirements in their entirety are required to be submitted prior to the execution of the Contract.

## 4. Minimum Requirement(s)

In addition to demonstrating that it meets the minimum requirements, Proposers shall affirm that they meet the minimum requirements by including the following statement:

“I certify that I meet the minimum requirements of this Request for Proposal.”

Proposals may be deemed non-responsive if these minimum requirement(s) are not met. The minimum requirements are defined in Section III: Scope of Services (entire section).

#### 5. Qualifications, Capabilities, and Experience

Proposer(s) shall provide a brief discussion of its qualifications and capabilities to perform work similar in nature to the services requested herein. Proposer(s) shall provide a brief discussion of their previous experiences with engagements that are the same or similar in nature to the services requested herein.

#### 6. Technical Approach and Methodology

Proposer(s) shall provide a discussion of ways to maximize benefits or services to GWP as well as discuss the objectives, recommendations, and solutions. Proposers shall provide a project schedule and timeline by task illustrating key deliverables.

#### 7. Key Personnel

Proposer(s) shall provide the names, resumes, and a statement of qualifications of key personnel who are expected to be assigned to this project and shall identify their specific responsibilities and qualifications, proposed service.

#### 8. References

Proposer(s) shall provide a minimum of three (3) references from different clients for engagements performed in the last three (3) years where similar were provided to the services requested herein. Proposer's Reference Information should include:

- Client's name, contact person name and title, contact person's responsibility and relationship to the project, address, telephone number, and email address.
- A description of the type and extent of services provided by the Proposer to the client.
- Names of key personnel on Proposer's team that participated in named Projects and their specific responsibilities.

- Completed dates (estimated, if not yet completed).
- Total costs of completed Project.

#### 9. Sub-Consultants List

Proposer(s) shall submit a complete list of all sub-consultants they intend to utilize in the provision of services requested in this solicitation.

#### 10. Price Proposal

Proposer(s) shall submit an hourly rate schedule.

## **VII. SELECTION PROCESS**

A selection panel comprised of GWP personnel will review the Proposals and consider the following factors to select the most qualified Proposer(s):

- Completeness of Proposal
- Quality of Proposal
- Proposer's Qualifications, Capabilities, and Experience
- Technical Approach and Methodology
- Professional Qualifications of Key Personnel
- Rate Schedule
- References

Based on review of the Proposals, a short list of Proposers will be selected for an interview and presentation that may be scheduled, if necessary.

By submitting Proposals to this RFP, Proposers understand and agree that GWP may award a Contract to (a) Proposer(s) whose approach exceeds or varies from the



requirements listed. GWP will be the sole judge of which Proposal(s) best satisfies the needs of GWP.

Negotiations regarding agreement terms, conditions, scope of services, and pricing may or may not be conducted with the selected Proposer. Therefore, Proposals submitted should contain the Proposer's most favorable terms and conditions, since the selection and award may be made without discussion with any Proposer. If GWP engages the Proposer in negotiation and satisfactory agreement provisions cannot be reached, the negotiations may be terminated. GWP may elect to contact another Proposer who has submitted a Proposal. This sequence may continue until an agreement is reached.

## VIII. BASIS FOR AWARD AND EVALUATION CRITERIA

A Proposer's submission will be evaluated and scored on the criteria listed below. Each criterion has a maximum allowable percentage.

EVALUATION CRITERIA	PERCENTAGE SCORE
<ul style="list-style-type: none"><li><b>Qualifications</b> <i>PROPOSER's Qualifications, Capabilities, and Experience with other publicly owned or private utilities in providing similar scope of work.</i></li></ul>	30%
<ul style="list-style-type: none"><li><b>Cost and Budget Control</b> <i>A PROPOSER must provide documentation demonstrating the ability to complete projects within cost and budget.</i></li></ul>	30%
<ul style="list-style-type: none"><li><b>Proposal Content and Schedule</b> <i>A PROPOSER must demonstrate ability and commitment to complete work on schedule and according to guidelines.</i></li></ul>	30%
<ul style="list-style-type: none"><li><b>Overall Proposal Responsiveness</b> <i>A Proposal will be evaluated on the PROPOSER'S overall responsiveness to the requests of this RFP.</i></li></ul>	10%
<b>TOTAL</b>	<b>100%</b>

## IX. AWARD OF CONTRACT

Once selected, the successful Proposer(s) must enter into a written Contract within a time period designated by the City. The RFP, or any part of it, and the Proposer(s)' responses, will be incorporated into and made a part of the Contract; a sample Contract is attached as Exhibit A.

Before any services can commence, the selected Proposer must execute the Contract. To facilitate the Project's smooth and timely implementation, Proposers responding to this RFP must review all terms and conditions of the Contract, including, but not limited to, provisions relating to insurance, indemnity, and termination. The City's policy is that the Contract be accepted as is. By submitting a Proposal to the City in response to this RFP, Proposers are deemed to have provided their approval to the Contract and Insurance Requirements, accepting it without qualification. If a Proposer seeks limited modification of the Contract, then in the Proposal a Proposer must identify the proposed changes.

***However, changes or qualifications to the PSA may be weighed in the evaluation of the Proposal and may cause rejection of the Proposal as non-responsive, in the City's determination.***

The City reserves the right to negotiate further the terms and conditions of the Contract. The Proposer whom the City Council selects must cooperate with the City in good faith to negotiate, sign, and deliver the final Contract.

At any time and for any reason, if Contract negotiations with the selected Proposer(s) fail to progress, to the City's reasonable satisfaction, the City reserves the right to not only end negotiations with the selected Proposer(s), but also cancel the award and reject the Proposal(s). At its discretion, the City may then: reopen the proposal process; choose from among the remaining, if any, qualified proposers; reissue the RFP; negotiate directly with any firm for the services; or choose not to contract for the services.

## X. CITY'S RESERVATION OF RIGHTS

This RFP and the Proposal evaluation process do not:

- Obligate the City to accept or select any Proposal; or
- Constitute an agreement by the City that it will actually enter into a Contract with any Proposer.

When it best serves the City's interests, the City may do any one or more of the following:

- Reject any Proposal or all Proposals at its sole discretion.
- Extend the deadline for accepting Proposals.

- Accelerate the pace of the RFP process if only one or a handful of Proposals is received.
- Waive any or all information, defects, irregularities, or informalities in a Proposal.
- Accept amendments to Proposals after the Proposal Deadline.
- Revise, change, or amend the RFP's evaluation or selection criteria before the Proposal Deadline.
- Cancel, withdraw, revise, change, amend, or negotiate the terms of this RFP, the proposed Contract, or both.
- Reissue a Request for Proposals.
- Conduct one or more oral interviews.
- Visit a Proposer's business or facilities.
- Examine financial records of a Proposer to the extent necessary to ensure financial stability.
- Make a partial award.
- Negotiate with one or more Proposers.
- Award a Contract to one or more Proposers.
- Require a best and final offer from one or more Proposers.
- Provide or perform the Services using a City officer or employee, or contract directly— without an RFP or bids— for the Services.

## **XI. GENERAL INFORMATION**

1. Each Proposer understands and agrees that the City, its departments, their officers, employees or agents will not be liable for the following:
  - Any costs incurred by Proposers in the preparation, delivery, or presentation of the qualifications and/or proposals.
  - Any Costs incurred by Proposers in meeting the criteria, as a result of making or submitting a proposal and/or entering into a formal agreement with the City.

- Any errors, inaccuracies, or misstatements related to the information or data supplied to any Proposer by the City. The use of any information or data provided by the City, its officers, employees, or agents to the Proposers shall be used by the Proposers at the sole discretion and risk of the Proposers.
2. If any of the information presented in the RFP is unclear, the Proposer(s) must address any questions to the Project Manager previously mentioned.
  3. It is the responsibility of the Proposers to carefully examine the requirements expressed in the RFP and fully educate themselves with the quality and character of services required. All responses to the RFP will become the property of the City and will be retained or disposed of accordingly by the City.
  4. The City reserves the right to reject any or all Proposals and to modify the RFP and re-solicit Proposals.
  5. The terms and scope of the resulting Contract will be determined on the basis of professional negotiations between the City and the qualified Proposer(s). If the City and the qualified Proposer(s) fail to reach an agreement, the City may commence negotiations with other qualified Proposers.
  6. Attached as Exhibit A is the City's PSA. The Proposers shall review the Contract and comment on their ability to execute such an agreement with the City. The Proposers shall also review Exhibit B, the City's Insurance Requirements, and comment on their ability to satisfy all of the City's insurance requirements.

## **XII. PUBLIC RECORDS ACT**

A Proposer must identify and list all copyrighted material, trade secrets, or other proprietary information ("protectable documents") that the Proposer included in its Proposal which the

Proposer believes should be exempt from disclosure under California's Public Records Act, Government Code Section 6250, et seq.

By listing the documents, the Proposer agrees to indemnify, defend, and hold harmless the City and its officers, agents, employees, and representatives from and against any action, claim, lawsuit, or proceeding, including costs and expenses, arising out of or connected with the City's refusal to disclose the protectable documents to any party making a request for those items.

***The City will treat any Proposer, who fails to identify documents that the Proposer believes should be exempt from disclosure, as having waived its right to an exemption from disclosure, as the Public Records Act provides.***

# Attachment A – Sample Contract

CONTRACT No. \_\_\_\_\_

*(For Architect, Landscape Architect, Professional Engineer, or Professional Land Surveyor)*

## **PROFESSIONAL SERVICES AGREEMENT**

BETWEEN THE CITY OF GLENDALE

AND

\_\_\_\_\_

**THIS AGREEMENT** ("Agreement"), effective \_\_\_\_\_, 20\_\_ ("Effective Date"), is between the City of Glendale ("CITY"), a municipal corporation, and \_\_\_\_\_ ("CONSULTANT"), a [(Name of State) corporation/ partnership/ limited partnership/ limited liability company/ a sole proprietor/ an individual] (collectively, "PARTIES" or individually, "PARTY").

### **RECITALS**

A. CITY is a public entity organized and existing under its Charter and the State of California's Constitution.

B. CONSULTANT represents that CONSULTANT is, and will continue to be for this Agreement's duration, a [(Name of State) corporation in good standing/ partnership/ limited partnership/ limited liability company/ a sole proprietorship/ an individual.] **[NOTE: staff must verify corporate status/ partnership/ LLC and Consultant's license, if any, and obtain proof.]** **[ADD, IF APPLICABLE: (which) (who) employs persons who are duly registered or licensed to practice in the State of California.]**

C. CONSULTANT possesses the competence, experience, expertise, skill, facilities, equipment, personnel, financial wherewithal, and other resources necessary to perform this Agreement's tasks in a professional and competent manner.

D. CONSULTANT desires to furnish and perform professional services for CITY, on the terms and conditions described in this Agreement. CONSULTANT has the legal authority to provide, engage in, and carry out the professional services set forth in this Agreement.

### **AGREEMENT**

**THEREFORE**, CITY engages CONSULTANT's services, and in consideration of the PARTIES' mutual promises, the PARTIES agree as follows:

## 1.0 INCORPORATION OF RECITALS

1.1. The Recitals constitute the factual basis upon which CITY and CONSULTANT have entered into this Agreement. CITY and CONSULTANT acknowledge the Recitals' accuracy and, therefore, incorporate them into this Agreement.

## 2.0 TERM

[Select one of the following alternatives:]

2.1. **[OPTION 1]** This Agreement begins on the Effective Date, and continues in effect until completion of the work described in Article 3, unless this Agreement ends sooner according to the terms elsewhere in this document.

2.1. **[OPTION 2]** This Agreement's Term is [  #  ] [months/ years], beginning on [DATE] and ending on [DATE], unless this Agreement ends sooner according to the terms elsewhere in this document.

## 3.0 SERVICES

3.1. **Scope of Work.** CONSULTANT shall [specify services to be provided] ("the Services") in accordance with the Scope of Work [***ADD, IF APPLICABLE:*** and Fee Schedule], which is attached as "Exhibit A" to this Agreement and is incorporated into it by this reference. [***NOTE: "Exhibit A" must set forth in detail the nature and extent of services that professional person or firm will render. Scope of Work should identify specific tasks, list and describe any deliverables, and specify procedures/ criteria for acceptance.***]

### 3.2. **Written Authorization.**

(A) CONSULTANT shall not make changes in the Scope of Work, perform any additional work, or provide any additional material, without first obtaining written authorization from CITY. If CONSULTANT provides additional services or materials without written authorization, or if CONSULTANT exceeds the Maximum Cost in Paragraph 7.4 of this Agreement, CONSULTANT proceeds at CONSULTANT's own risk and without payment.

(B) CITY will authorize CONSULTANT to proceed with discrete tasks by issuing written Task Orders. Receipt of a written Task Order, signed by CITY's Project Manager, is a prerequisite for CONSULTANT to proceed with each task. [***ADD, IF APPLICABLE:*** Each Task Order will specify a not-to-exceed price and a schedule for completion of the task. CONSULTANT shall not exceed the not-to-exceed price in each Task Order.] In performing each phase or task, CONSULTANT shall not exceed the Maximum Cost in Paragraph 7.4 of this Agreement. Issuance of a Task Order neither authorizes CONSULTANT to incur expenditures in excess of the Maximum Cost, nor relieves CONSULTANT from its responsibility for completing all of the Services within the Maximum Cost.

3.3. **Professional Standard of Care.** During this Agreement's Term:

(A) CONSULTANT and its Subconsultants, subcontractors, employees, and agents (collectively, "CONSULTANT PARTIES") shall perform all of the Services in this Agreement in an expeditious and professional manner, using professionals properly licensed and duly qualified to perform the Services.

(B) CONSULTANT PARTIES shall perform the work described in this Agreement in accordance with generally accepted professional practices and principles, and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by members of CONSULTANT PARTIES' profession currently practicing in California. By delivering the completed work, CONSULTANT PARTIES represent and certify that their work conforms to: the requirements of this Agreement; all applicable (federal, state, county, local, CITY) laws, rules, regulations, orders, and procedures; and the professional standard of care in California.

(C) CONSULTANT PARTIES are responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation: site conditions; existing facilities; seismic, geologic, soils, hydrologic, geographic, climatic conditions; applicable (federal, state, county, local, CITY) laws, rules, regulations, orders, and procedures; and all other contingencies or design considerations. Data, calculations, opinions, reports, investigations, or any other information or documents that CITY provides relating to site, local, or other conditions are not warranted or guaranteed, either expressly or implied, by CITY.

(D) When the Scope of Work requires or permits CITY's review, approval, conditional approval, or disapproval, CONSULTANT acknowledges that CITY's review, approval, conditional approval, or disapproval:

- (1) Is solely for the purposes of administering this Agreement and determining whether CONSULTANT is entitled to payment for its Services;
- (2) Is not to be construed as a waiver of any breach, or acceptance by CITY, of any responsibility— professional or otherwise— for the Services or CONSULTANT's work product;
- (3) Does not relieve CONSULTANT of the responsibility for complying with the standard of performance or professional care; or laws, regulations, or industry standards; and
- (4) Does not relieve CONSULTANT from liability for damages arising out of CONSULTANT's: negligent acts, errors, or omissions; recklessness; willful misconduct; or noncompliance with industry standards.

(E) Without additional compensation to CONSULTANT and at no cost to CITY, CONSULTANT shall correct or revise all errors, mistakes, or deficiencies in its work product, studies, reports, designs, drawings, specifications, or other services.



#### **4.0 TIME FOR PERFORMANCE**

[Select one of the following alternatives:]

4.1. **[OPTION 1]** CONSULTANT shall complete all of the Services by     [DATE]    .

4.1. **[OPTION 2]** CONSULTANT shall perform the Services according to the Project Time Schedule, which is attached as “Exhibit B” to this Agreement and is incorporated into it by this reference. CONSULTANT shall complete all of the Services by     [DATE]    .

4.2. If the Project Time Schedule calls for performance of the Services in phases or discrete increments, CONSULTANT shall not proceed from one phase or increment to the next without written authorization from CITY’s Project Manager.

4.3. **Force Majeure.** If an event or condition constituting a “force majeure”—including, but not limited to, an act of God, labor dispute, civil unrest, epidemic, or natural disaster—prevents or delays a PARTY from performing or fulfilling an obligation under this Agreement, the PARTY is not in Default, under Paragraph 13.1 of this Agreement, of the obligation. A delay beyond a PARTY’s control automatically extends the time, in an amount equal to the period of the delay, for the PARTY to perform the obligation under this Agreement. The PARTIES shall prepare and sign an appropriate document acknowledging any extension of time under this Paragraph.

#### **5.0 PERSONNEL**

5.1. **Project Management.** Each PARTY shall appoint a Project Manager. The Project Managers shall meet [**SET FORTH SPECIFIC TIMES: hourly/ daily/ weekly/ as needed**] to coordinate, review, and ensure CONSULTANT’s performance under this Agreement. CITY’s Project Manager will oversee the administration of CONSULTANT’s tasks under this Agreement.

5.2. **Key Personnel.** CONSULTANT’s project team shall work under the direction of the following key personnel [**IDENTIFY CONSULTANT’S KEY PERSONNEL AND TITLE**]. [**OR STATE: CONSULTANT shall employ the key personnel identified in “Exhibit A.”**] CONSULTANT shall minimize changes to its key personnel. CITY may request key personnel changes, and CITY may review and approve key personnel changes proposed by CONSULTANT. CITY will not unreasonably withhold approval of key personnel assignments and changes.

5.3. **Use of Agents or Assistants.** With CITY’s prior written approval, CONSULTANT may employ, engage, or retain the services of persons or entities (“Subconsultants”) that CONSULTANT may deem proper to aid or assist in the proper performance of CONSULTANT’s duties. CITY is an intended beneficiary of all work that the Subconsultants perform for purposes of establishing a duty of care between the Subconsultants and CITY. CONSULTANT is as responsible for the performance of its Subconsultants as it would be if it had rendered the Services itself. All costs of the tasks performed or the expenses incurred by the Subconsultants are chargeable directly to CONSULTANT. Nothing in this Agreement

constitutes or creates a contractual relationship between CITY and anyone other than CONSULTANT.

5.4. **Independent Contractor.**

(A) CONSULTANT understands and acknowledges that CONSULTANT is an independent contractor, not an employee, partner, agent, or principal of CITY. This Agreement does not create a partnership, joint venture, association, or employer-employee relationship between the PARTIES. At its own expense, CONSULTANT is responsible for providing compensation; employment benefits; disability, unemployment, and other insurance; workers' compensation; training; permits and licenses; and office space for CONSULTANT and for CONSULTANT's employees and Subconsultants. CONSULTANT has, and shall retain, the right to exercise full control over the employment, direction, compensation, and discharge of all persons whom CONSULTANT uses in performing the Services under this Agreement. CONSULTANT shall provide the Services in CONSULTANT's own manner and method, except as this Agreement specifies. CONSULTANT shall treat a provision in this Agreement that may appear either to give CITY the right to direct CONSULTANT as to the details of doing the work, or to exercise a measure of control over the work, as giving CONSULTANT direction only as to the work's end result.

(B) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY for any obligation; claim; suit; demand for tax or retirement contribution, including any contribution or payment to the Public Employees Retirement System (PERS); social security; salary or wages; overtime, penalty, or interest payment; or workers' compensation payment that CITY may be required to make on behalf of CONSULTANT, an employee of CONSULTANT, or any employee of CONSULTANT construed to be an employee of CITY, for the work done under this Agreement.

5.5. **Non-Discrimination in Employment.** CONSULTANT shall not discriminate against any employee or person who is subject to this Agreement because of race, color, religion, religious belief, national origin, ancestry, citizenship, age, sex, sexual orientation, gender identity, gender expression, marital status, pregnancy, parenthood, medical condition, or physical or mental disability.

5.6. **Disability Access Laws.** CONSULTANT represents and certifies that the work product, studies, reports, designs, drawings, and specifications that CONSULTANT prepares under this Agreement fully conform to all applicable disability access and design laws, regulations, and standards— including, but not limited to, the Americans with Disabilities Act (42 U.S.C. Sections 12101 *et seq.*) and Title 24 of the California Code of Regulations— when the Scope of Work requires or calls for compliance with those laws, regulations, or standards.

5.7. **Prevailing Wage Laws.** Services by persons deemed to be employees of CONSULTANT possibly may be subject to prevailing wages under California Labor Code Sections 1770-1781. CONSULTANT's sole responsibility is to comply with those requirements, should they apply. If a dispute based upon the prevailing wage laws occurs, CONSULTANT, at its expense, shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives

from and against all liability, claims, suits, demands, damages, fines, penalties, wages, costs, or expenses pertaining to the prevailing wage laws.

5.8. **Workers' Compensation.** CONSULTANT understands and acknowledges that all persons furnishing services to CITY under this Agreement are, for the purpose of workers' compensation liability, employees solely of CONSULTANT and not of CITY. In performing the Services or the work under this Agreement, CONSULTANT is liable for providing workers' compensation benefits to CONSULTANT's employees, or anyone whom CONSULTANT directly or indirectly hires, employs, or uses. CITY is not responsible for any claims at law or in equity caused by CONSULTANT's failure to comply with this Paragraph.

## **6.0 FACILITIES**

6.1. CONSULTANT shall provide all facilities necessary to fully perform and complete the Services. If CONSULTANT needs to use a CITY facility, CONSULTANT shall meet and confer with CITY before CONSULTANT begins the work that this Agreement requires, the PARTIES shall agree to any costs chargeable to CONSULTANT, and in an amendment to this Agreement, the PARTIES shall describe the facility's terms of use and its charges.

6.2. CONSULTANT shall pay for any damage to CITY property, facilities, structures, or streets arising out of CONSULTANT's use, occupation, operation, or activities in, upon, under, or over any portion of them.

## **7.0 PAYMENT**

7.1. CITY's payment to CONSULTANT will be based upon CONSULTANT's Fee Schedule, which is attached as "Exhibit C" to this Agreement and is incorporated into it by this reference. ***[NOTE: "Exhibit C" must include a breakdown of the not-to-exceed amount, including hourly rates for project staff, any overtime rates, a list and the rate for any reimbursable expenses, or a statement that costs are included in the hourly rate, and an explanation of any mark-ups.]*** Except as itemized in the Fee Schedule, CONSULTANT shall pay for all expenses, including reimbursable or out-of-pocket expenses, that CONSULTANT incurs in performing the Services. The Fee Schedule will remain in effect for the Agreement's Term.

*[Select one of the following provisions:]*

7.2. **Fee.** **[OPTION 1]** CITY shall pay for the Services in a lump sum, which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_), upon CONSULTANT's satisfactory completion of the Services and CONSULTANT's delivery of the work product.

7.2. **Fee.** **[OPTION 2]** CITY shall pay for the Services that CONSULTANT performs in accordance with this Agreement at the hourly rate(s) specified in "Exhibit C," the TOTAL amount of which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_).

7.2. **Fee.** **[OPTION 3]** CITY shall pay for the Services in **[IF PAYMENTS ARE IN INTERVALS, SPECIFY A PERIOD (e.g., monthly/ quarterly) OR SPECIFY A QUANTITY (e.g., two/ three/ five)]** installments, the TOTAL amount of which is not to exceed \_\_\_\_\_ dollars (\$\_\_\_\_\_). Each installment will be payable upon satisfactory completion, in CITY's

determination, of the work in each phase identified below, and in an amount proportionate to the work CONSULTANT performed or completed within each phase:

<b><u>Phase:</u></b>	<b><u>Description:</u></b>	<b><u>Amount:</u></b>
I –	<u>[Example: Construction Documents]</u>	\$ _____
II –	<u>[Example: Bid Documents]</u>	\$ _____
III –	<u>[Example: Construction Support]</u>	\$ _____
IV –	<u>[Example: Project 's Closeout]</u>	\$ _____
<b>TOTAL</b>		<b>\$ _____</b>

7.3. If CITY requires additional work not included in this Agreement, CONSULTANT and CITY shall negotiate the additional work, mutually agree on the amount of additional compensation, and memorialize the terms in either a separate written contract or an amendment to this Agreement.

7.4. **Maximum Cost.** CONSULTANT expressly acknowledges that the total cost to complete all tasks set forth in "Exhibit A" must not exceed \_\_\_\_\_ dollars (\$ \_\_\_\_\_) ("Maximum Cost"). When CONSULTANT has billed 75% of the Maximum Cost, CONSULTANT shall provide written notice to CITY's Project Manager that CONSULTANT has expended 75% of the Maximum Cost.

7.5. **Taxes.** CONSULTANT shall pay all applicable (federal, state, county, local, CITY) excise, sales, consumer use, possessory interest, or other similar taxes required by law that are levied upon this Agreement or upon CONSULTANT's services under this Agreement.

7.6. **Invoices.** CONSULTANT shall submit an original, itemized invoice to CITY for approval, before receiving compensation. CONSULTANT shall submit the invoice at no more than monthly intervals. All invoices must include a summary of total costs, description of the Services performed, a brief itemization of costs associated with each task or phase, and the total phase or project costs to date.

## **8.0 AUDIT BY CITY**

8.1. During this Agreement's Term and for a period of four (4) years after the expiration, cancellation, or termination of this Agreement, or any extension of it, CONSULTANT shall:

(A) Keep and maintain, in their original form, all records, books, papers, or documents related to CONSULTANT's performance of this Agreement; and

(B) Permit CITY or its authorized representatives, at all reasonable times, to have access to, examine, audit, excerpt, copy, photocopy, photograph, or transcribe all records, books, papers, or documents related to CONSULTANT's performance of this Agreement including, but not limited to: direct and indirect charges, and detailed documentation, for work CONSULTANT has performed or will perform under this Agreement.

## **9.0 DATA, RECORDS, PROPRIETARY RIGHTS**

9.1. **Copies of Data.** CONSULTANT shall provide CITY with copies or originals of all data that CONSULTANT generates, uses, collects, or stores in relation to all work associated with this Agreement. Data that CONSULTANT generates, uses, collects, stores, or provides must be in a form acceptable to, and agreed upon by, CITY.

### **9.2. Ownership and Use.**

(A) Unless CITY states otherwise in writing, each document— including, but not limited to, each report, draft, record, drawing, or specification (collectively, “work product”)— that CONSULTANT prepares, reproduces, or causes its preparation or reproduction for this Agreement is CITY's exclusive property.

(B) CONSULTANT acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work. CONSULTANT makes no representation of the work product's application to, or suitability for use in, circumstances not contemplated by the Scope of Work.

### **9.3. Intellectual Property.**

(A) If CONSULTANT uses or incorporates patented, trademarked, or copyrighted work, ideas, or products— in whole or in part— into CONSULTANT's work product, CONSULTANT represents that:

- (1) CONSULTANT holds the patent, trademark, or copyright to the work, idea, or product; or
- (2) CONSULTANT is licensed to use the patented, trademarked, or copyrighted work, idea, or product.

(B) Unless CITY states otherwise in writing, all proprietary rights or intellectual property rights, including copyrights, that arise from creation of the work under this Agreement vest in CITY. CONSULTANT waives and relinquishes all claims to proprietary rights and intellectual property rights, including copyrights, in favor of CITY.

(C) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, royalties, fines, penalties, costs, or expenses arising out of or alleging any infringement or misappropriation of a patent, copyright, trade secret, trade name, trademark, or other intellectual property right or proprietary right.

9.4. **Confidentiality.** CONSULTANT shall not use any information that it obtains from performing the Services for any purpose other than for fulfillment of CONSULTANT's Scope of Work. Without CITY's prior written authorization, CONSULTANT shall not disclose or publish— or authorize, permit, or allow others to disclose or publish— data, drawings, designs, specifications, reports, or other information relating to the Services or the work that CITY assigns to CONSULTANT or to which CONSULTANT has access.

9.5. **Public Records Act.**

(A) CONSULTANT acknowledges that this Agreement is a public record. This Agreement, its Exhibits, and all documents produced under this Agreement are subject to the California Public Records Act (Government Code Sections 6250 *et seq.*), including its exemptions. CONSULTANT acknowledges that CITY has no obligation to notify CONSULTANT when a request for records is received.

(B) CONSULTANT shall identify in advance all records, or portions of them, that CONSULTANT believes are exempt from production under the Public Records Act.

(C) If CONSULTANT claims a privilege against public disclosure or otherwise objects to the records' disclosure, then:

- (1) CONSULTANT may, when notified by CITY of the request, seek protection from disclosure by timely applying for relief in a court of competent jurisdiction; or
- (2) CITY may either decline to produce the requested information, or redact portions of the documents and produce the redacted records.

(D) If CONSULTANT fails to identify one or more protectable documents, in CITY's sole discretion, and without its being in breach of this Agreement or its incurring liability to CONSULTANT, CITY may produce the records— in whole, in part, or redacted— or may decline to produce them.

(E) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for CITY), and hold harmless CITY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, fines, penalties, costs, or expenses arising out of or alleging CITY's refusal to publicly disclose one or more records that CONSULTANT identifies as protectable, or asserts is protectable.

## **10.0 CONFLICT OF INTEREST; CAMPAIGN CONTRIBUTIONS**

### **10.1. Conflict of Interest.** CONSULTANT represents and certifies that:

(A) CONSULTANT's personnel are not currently officers, agents, employees, representatives, or elected officials of CITY;

(B) CONSULTANT will not employ or hire a CITY officer, agent, employee, representative, or elected official during this Agreement's Term;

(C) CITY's officers, agents, employees, representatives, and elected officials do not, and will not, have any direct or indirect financial interest in this Agreement; and

(D) During this Agreement's Term, CONSULTANT will inform CITY about any possible conflict of interest that may arise as a result of any change in circumstances.

### **10.2. Campaign Contributions.**

(A) CONSULTANT and its Subconsultants shall fully comply with Glendale Municipal Code Section 1.10.060, which places limitations on CONSULTANT's and its Subconsultants' ability to make campaign contributions to certain elected City officials or candidates for elected City office. Specifically, Section 1.10.060 prohibits:

- (1) A consultant (including a subconsultant)— who has a contract with the City of Glendale, Glendale Successor Agency, or the Housing Authority of the City of Glendale and that contract is subject to approval by the City Council, Successor Agency, or Housing Authority— from making a contribution to a City Council member, City Clerk, or City Treasurer, when the contract has a total anticipated or actual value of \$50,000 or more, or a combination or series of contracts having a value of \$50,000 or more; and
- (2) A City Council member, Successor Agency member, or Housing Authority member from voting on a contract in which a consultant (or a subconsultant) has provided a campaign contribution.

(B) CONSULTANT acknowledges that even if the Maximum Cost in Paragraph 7.4 of this Agreement is less than \$50,000, CONSULTANT still may be subject to the campaign contribution limitations in Municipal Code Section 1.10.060, when:

- (1) CONSULTANT and CITY amend the Scope of Work in this Agreement which increases the Maximum Cost to equal or exceed \$50,000; or
- (2) CITY, Glendale Successor Agency, or the Housing Authority awards CONSULTANT another contract which has a total anticipated or

actual value of \$50,000 or more, or awards CONSULTANT a combination or series of contracts which have a value of \$50,000 or more.

(C) CONSULTANT represents and certifies that:

- (1) CONSULTANT has read and fully understands the provisions of Municipal Code Section 1.10.060;
- (2) CONSULTANT will not: (a) make a prohibited campaign contribution to an individual holding CITY elective office; or (b) otherwise violate Municipal Code Section 1.10.060; and
- (3) CONSULTANT shall timely complete, return, and update one or more disclosure or reporting forms that CITY provides.

## **11.0 INSURANCE**

11.1. When CONSULTANT signs and delivers this Agreement to CITY, and during this Agreement's Term, CONSULTANT shall furnish CITY with insurance forms that fully meet the requirements of— and contain provisions entirely consistent with— all of the "Insurance Requirements," which are attached as "Exhibit D" (D-1 to D-\_\_\_) to this Agreement and are incorporated into it by this reference.

11.2. This Agreement's insurance provisions:

(A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.

## **12.0 INDEMNITY**

12.1. To the maximum extent permitted by law— including, but not limited to, California Civil Code Sections 2778 and 2782.8— CONSULTANT, its employees, agents, Subconsultants, and persons whom CONSULTANT employs or hires (individually and collectively, "CONSULTANT INDEMNITOR") shall indemnify, defend, and hold harmless CITY, its officers, agents, employees, and representatives (individually and collectively, "CITY INDEMNITEE") from and against a "**liability**" [as defined in Subparagraph (A) below], or an "**expense**" [as defined in Subparagraph (B) below], or both, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of a CONSULTANT INDEMNITOR:



(A) “**Liability**” means claims, suits, actions, causes of action, proceedings, judgments, decrees, awards, settlements, liens, losses, damages, injuries, or liability of any kind, whether the **liability** is:

- (1) Actual or alleged;
- (2) In contract or in tort; or
- (3) For bodily injury (including accidental death), personal injury, advertising injury, or property damage.

(B) “**Expense**” means fees, costs, sums, penalties, fines, charges, or expenses of any kind, including, but not limited to:

- (1) Attorney's fees;
- (2) Costs of an investigation, litigation, arbitration, mediation, administrative or regulatory proceeding, or appeal;
- (3) Fees of an accountant, expert witness, consultant, or other professional; or
- (4) Pre or post: judgment interest or settlement interest.

12.2. Under this Article, CONSULTANT INDEMNITOR’s defense and indemnification obligations:

(A) Apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the actual or alleged passive negligence of a CITY INDEMNITEE; but

(B) Do not apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the sole active negligence or willful misconduct of a CITY INDEMNITEE.

12.3. To the extent that CONSULTANT INDEMNITOR’s insurance policy provides an upfront defense to CITY, CONSULTANT INDEMNITOR’s obligation to defend a CITY INDEMNITEE under this Article:

(A) Means that CONSULTANT INDEMNITOR shall provide and pay for legal counsel, acceptable to CITY, for the CITY INDEMNITEE;

(B) Occurs when a claim, suit, complaint, pleading, or action against a CITY INDEMNITEE arises out of, pertains to, relates to, or asserts the negligence, recklessness, or willful misconduct of CONSULTANT INDEMNITOR; and

(C) Arises regardless of whether a claim, suit, complaint, pleading, or action specifically names or identifies CONSULTANT INDEMNITOR.

12.4. Paragraph 12.3 does not limit or extinguish CONSULTANT INDEMNITOR's obligation to reimburse a CITY INDEMNITEE for the costs of defending the CITY INDEMNITEE against a **liability**, or an **expense**, or both. The defense costs charged to CONSULTANT INDEMNITOR will not exceed CONSULTANT INDEMNITOR's proportionate percentage of fault. A CITY INDEMNITEE's right to recover defense costs and attorney's fees under this Article does not require, and is not contingent upon, the CITY INDEMNITEE's first:

(A) Requesting that CONSULTANT INDEMNITOR provide a defense to the CITY INDEMNITEE; or

(B) Obtaining CONSULTANT INDEMNITOR's consent to the CITY INDEMNITEE's tender of defense.

12.5. If CONSULTANT subcontracts all or any portion of the Services under this Agreement, CONSULTANT shall provide CITY with a written agreement from each Subconsultant, who must indemnify, defend, and hold harmless CITY INDEMNITEE under the terms in this Article.

12.6. CONSULTANT INDEMNITOR's obligation to indemnify, defend, and hold harmless CITY will remain in effect and will be binding upon CONSULTANT INDEMNITOR whether the **liability**, or the **expense**, or both, accrues— or is discovered— before or after this Agreement's expiration, cancellation, or termination.

12.7. Except for Paragraph 12.3, this Article's indemnification and defense provisions are separate and independent from the insurance provisions in Article 11. In addition, the indemnification and defense provisions in this Article:

(A) Are neither limited to nor capped at the coverage amounts specified under the insurance provisions in Article 11; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the insurance provisions in Article 11.

### **13.0 DEFAULT, REMEDIES, AND TERMINATION**

13.1. **Default.** Default under this Agreement occurs upon any one or more of the following events:

(A) CONSULTANT refuses or fails— whether partially, fully, temporarily, or otherwise— to:

- (1) Provide or maintain enough properly trained personnel, or licensed personnel, or both, to perform the Services that this Agreement requires;

- (2) Pay for, obtain, maintain, or renew the insurance policies or coverages that this Agreement requires;
- (3) Comply with indemnification, defense, or hold harmless provisions that this Agreement requires; or

(B) CONSULTANT, or its personnel, or both— whether partially, fully, temporarily, or otherwise:

- (1) Disregards or violates a law, ordinance, rule, procedure, regulation, directive, or order;
- (2) Refuses or fails to pay for, obtain, maintain, or renew requisite licenses;
- (3) Refuses or fails to observe, perform, or fulfill a covenant, condition, obligation, term, or provision of this Agreement;
- (4) Commits an unlawful, false, fraudulent, dishonest, deceptive, or dangerous act while performing the Services under this Agreement; or

(C) CONSULTANT:

- (1) Or another party for or on behalf of CONSULTANT: institutes proceedings under any bankruptcy, reorganization, receivership or other insolvency; or assigns or transfers assets to its creditors;
- (2) Delegates— whether in whole, in part, temporarily, or otherwise— its duties or obligations under this Agreement, without notifying CITY, or without CITY's written authorization;
- (3) Assigns, transfers, pledges, hypothecates, grants, or encumbers— whether in whole, in part, temporarily, or otherwise— this Agreement or any interest in it, without notifying CITY, or without CITY's written authorization;
- (4) Or one of its partners, directors, officers, or general managers, or a person who exercises managerial authority on CONSULTANT's behalf, is convicted under state or federal law, during this Agreement's Term, of embezzlement, theft, fraud, forgery, bribery, deceptive or unlawful business practices, perjury, falsifying or destroying records or evidence, receiving stolen property, or other offense indicating a lack of business integrity or business honesty; or

(D) Any other justifiable cause or reason, as reasonably determined by the City Manager, or a designee.

13.2. **Notice of Default.** If CITY deems that CONSULTANT is in Default, or that CONSULTANT has failed in any other respect to perform satisfactorily the Services specified in this Agreement, CITY may give written notice to CONSULTANT specifying the Default(s) that CONSULTANT shall remedy within [SELECT: 5/ 10/ 14/ 30] days after receiving the notice. The Notice of Default will set forth one or more bases for any dissatisfaction and may suggest corrective measures.

13.3. **Remedies upon Default.** Within [SELECT THE SAME NUMBER IN PARAGRAPH 13.2 ABOVE: 5/ 10/ 14/ 30] days after receiving CITY's Notice of Default, if CONSULTANT refuses or fails to remedy the Default(s), or if CONSULTANT does not commence steps to remedy the Default(s) to CITY's reasonable satisfaction, CITY may exercise any one or more of the following remedies:

(A) CITY may, in whole or in part and for any length of time, immediately suspend this Agreement until such time as CONSULTANT has corrected the Default;

(B) CITY may provide for the Services either through its own forces or from another consultant, and may withhold any money due (or may become owing to) CONSULTANT for a task related to the claimed Default;

(C) CITY may withhold all moneys, or a sum of money, due CONSULTANT under this Agreement, which in CITY's sole determination, are sufficient to secure CONSULTANT's performance of its duties and obligations under this Agreement;

(D) CITY may immediately terminate the Agreement;

(E) CITY may exercise any legal remedy, or equitable remedy, or both, including, but not limited to, filing and action in court:

(1) Seeking CONSULTANT's specific performance of all or any part of this Agreement; or

(2) Recovering damages for CONSULTANT's Default, breach, or violation of this Agreement; or

(F) CITY may pursue any other available, lawful right, remedy, or action.

13.4. **Termination for Convenience.** Independent of the remedies provided in Paragraph 13.3, CITY may elect to terminate this Agreement at any time upon [SELECT: 10/ 14/ 30] days' prior written notice. Upon termination, CONSULTANT shall receive compensation only for that work which CONSULTANT had satisfactorily completed to the termination date. CITY shall not pay CONSULTANT for de-mobilization, takedown, disengagement, wind-down, or other costs incurred arising out of this Agreement's termination.

## 14.0 **GENERAL PROVISIONS**

14.1. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the PARTIES. This Agreement supersedes all prior and contemporaneous communications, negotiations, understandings, promises and agreements, either oral or written. Neither CONSULTANT nor CITY has made any promises or representations, other than those contained in this Agreement or those implied by law. The PARTIES may modify this Agreement, or any part of it, by a written amendment with CITY's and CONSULTANT's signature.

14.2. **Interpretation.** This Agreement is the product of negotiation and compromise by both PARTIES. Every provision in this Agreement must be interpreted as though the PARTIES equally participated in its drafting. Therefore, despite the provisions in California Civil Code Section 1654, if this Agreement's language is uncertain, the Agreement must not be construed against the PARTY causing the uncertainty to exist. In interpreting this Agreement and resolving any ambiguities, this Agreement will take precedence over any cover page or attachments. If a conflict occurs between a provision in this Agreement and a provision in an attachment, the following order of precedence applies, with the terms and conditions in the document higher on the list governing over those lower on the list:

- (1) The Agreement.
- (2) Exhibit D (Insurance Requirements).
- (3) Exhibit B (Project Time Schedule).
- (4) Exhibit A (Scope of Work).
- (5) Exhibit C (Fee Schedule).

14.3. **Headings.** All headings or captions in this Agreement are for convenience and reference only. They are not intended to define or limit the scope of any term, condition, or provision.

### 14.4. **Governing Law; Jurisdiction.**

(A) California's laws govern this Agreement's construction and interpretation regardless of the laws that might otherwise apply under applicable principles of conflicts of law or choice of law.

(B) If CONSULTANT or CITY brings a lawsuit to enforce or interpret one or more provisions of this Agreement, jurisdiction is in the Superior Court of the County of Los Angeles, California, or where otherwise appropriate, in the United States District Court, Central District of California. CONSULTANT and CITY acknowledge that the Agreement was negotiated, entered into, and executed— and the Services are performed— in the City of Glendale, California.

(C) Unless this Agreement provides otherwise, any reference to laws, ordinances, rules, or regulations include their later amendments, modifications, and successor legislation.

14.5. **Waiver of Breach.** If either PARTY fails to require the other to perform any term in this Agreement, that failure does not prevent the PARTY from later enforcing that term, or any other term. If either PARTY waives the other's breach of a term, that waiver is not treated as waiving a later breach of the term. A waiver of a term is valid only if it is in writing and signed by the PARTY waiving it. This Agreement's duties and obligations:

(A) Are cumulative (rather than alternative) and are in addition to (rather than a limitation on) any option, right, power, remedy, or privilege; and

(B) Are not exhausted by a PARTY's exercise of any one of them.

14.6. **Attorney's Fees.** If CITY or CONSULTANT brings an action at law or in equity to enforce or interpret one or more provisions of this Agreement, the "prevailing party" is entitled to "reasonable attorney's fees" in addition to any other relief to which the prevailing party may be entitled. A "prevailing party" has the same meaning as that term is defined in California Code of Civil Procedure Section 1032(a)(4). "Reasonable attorney's fees" of the City Attorney's office means the fees regularly charged by private attorneys who:

(A) Practice in a law firm located in Los Angeles County; and

(B) Have an equivalent number of years of professional experience in the subject matter area of the law for which the City Attorney's services were rendered.

14.7. **Further Assurances.** Upon CITY's request at any time, CONSULTANT shall promptly:

(A) Take further necessary action; and

(B) Sign, acknowledge, and deliver all additional documents as may be reasonable, necessary, or appropriate to carry out this Agreement's intent, purpose, and terms.

14.8. **Assignment.**

(A) This Agreement does not give any rights or benefits to anyone, other than to CITY and CONSULTANT. All duties, obligations, and responsibilities under this Agreement are for the sole and exclusive benefit of CITY and CONSULTANT, and are not for the benefit of another person, entity, or organization. Without CITY's prior written authorization, CONSULTANT shall not do any one or more of the following:

(1) Assign or transfer a right or interest— whether in whole, in part, temporarily, or otherwise— in this Agreement; or

(2) Delegate a duty or obligation owed— whether in whole, in part, temporarily, or otherwise— under this Agreement.

(B) Any actual or attempted assignment of rights or delegation of duties by CONSULTANT, without CITY's prior written authorization, is wholly void and totally ineffective for

all purposes; and does not postpone, delay, alter, extinguish, or terminate CONSULTANT's duties, obligations, or responsibilities under this Agreement.

(C) If CITY consents to an assignment of rights, or a delegation of duties, or both, CONSULTANT's assignee or legal representative shall agree in writing to personally assume, perform, and to be bound unconditionally by the covenants, obligations, terms, and conditions in this Agreement.

14.9. **Successors and Assigns.** Subject to the provisions in Paragraph 14.8, this Agreement is binding on the heirs, executors, administrators, successors, and assigns of the respective PARTIES.

14.10. **Time is of the Essence.**

(A) Except when this Agreement states otherwise, time is of the essence in this Agreement. CONSULTANT acknowledges that this Agreement's time limits and deadlines are reasonable for CONSULTANT's performing the Services under this Agreement.

(B) Unless this Agreement specifies otherwise, any reference to "day" or "days" means calendar and not business days. If the last day for giving notice or performing an act under this Agreement falls on a weekend, a legal holiday listed in either Glendale Municipal Code Section 3.08.010 or California's Government Code, or a day when City Hall is closed, the period is extended to and including the next day that CITY is open for business. A reference to the time of day refers to local time for Glendale, California.

14.11. **Recycled Paper.** CONSULTANT shall endeavor to submit all reports, correspondence, and documents related to this Agreement on recycled paper.

14.12. **Notices.**

(A) The PARTIES shall submit in writing all notices and correspondence that this Agreement requires or permits, and shall use the following delivery method:

- (1) Personal delivery;
- (2) U.S. mail, first class postage prepaid;
- (3) "Certified" U.S. mail, postage prepaid, return receipt requested;
- (4) Facsimile; or
- (5) Email.

(B) All written notices or correspondence done in the manner described in Subparagraph (A) above with the street address or place, facsimile number, or email address listed in Subparagraph (C) below will be presumed "given" to a PARTY on whichever date occurs earliest:

- (1) The date of personal delivery;

- (2) The third (3rd) business day following deposit in the U.S. mail, when sent by "first class" mail;
- (3) The date on which the PARTY or its agent either signed the return receipt or refused to accept delivery, as noted on the return receipt or other U.S. Postal Service form, when sent by "certified" mail; or
- (4) The date of transmission, when sent by facsimile or email.

(C) CITY and CONSULTANT designate the following contact person, street address or place, telephone number, and facsimile number or email address for giving notice:

CITY: City of Glendale  
Dept.: \_\_\_\_\_  
\_\_\_\_\_  
Glendale, CA 9120\_\_  
Attn: \_\_\_\_\_  
  
Tel. No.: \_\_\_\_\_  
Fax. No.: \_\_\_\_\_  
Email: \_\_\_\_\_

CONSULTANT:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
  
Tel. No.: \_\_\_\_\_  
Fax. No.: \_\_\_\_\_  
Email: \_\_\_\_\_



(D) At any time, by providing written notice to the other PARTY, CITY or CONSULTANT may change the contact information listed in Subparagraph (C) above.

14.13. **Survival.** This Paragraph and the obligations set forth in Paragraphs 5.4, 5.6, 5.7, 5.8, 7.5, 8.1, 9.1, 9.2, 9.3, 9.4, 9.5, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 13.3, 14.5, 14.6, 14.7, 14.8, 14.9, and 14.12 survive this Agreement's expiration, cancellation, or termination.

14.14. **Severability.** The invalidity, in whole or in part, of any term of this Agreement will not affect this Agreement's remaining terms.

14.15. **Counterparts.** This Agreement may be executed in counterparts, each of which is an original, but all of which constitutes one and the same document. The PARTIES shall sign a sufficient number of counterparts, so that each PARTY will receive a fully executed original of this Agreement.

14.16. **Representations – Authority.** The PARTIES represent that:

(A) They have read this Agreement, fully understand its contents, and have received a copy of it;

(B) Through their duly authorized representative, they are authorized to sign this Agreement, and they are bound by its terms; and

(C) They have executed this Agreement on the date opposite their signature.

14.17. **Digital Signatures.** A signed copy of this Agreement or any amendment thereto bearing a digital signature, shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such amendment thereto for all purposes, and each digital signature should be given the same legal force and effect as a handwritten signature.

Executed at Glendale, California.

**CITY OF GLENDALE:**

By \_\_\_\_\_

Date: \_\_\_\_\_

Roubik R. Golanian, P.E.

Interim City Manager

**CONSULTANT:**

By \_\_\_\_\_

Date: \_\_\_\_\_

(Name) \_\_\_\_\_

(Title) \_\_\_\_\_

APPROVED AS TO FORM
NAME: _____
TITLE: _____
SIGNATURE: _____
DATE: _____

# Attachment B – Sample Insurance Requirements

## INSURANCE REQUIREMENTS *PROFESSIONAL SERVICES AGREEMENT*

### “PROFESSIONAL LIABILITY” INSURANCE

1.1 Without limiting CONSULTANT's liability and at its sole expense, CONSULTANT shall obtain, pay for, and maintain a Professional Liability insurance policy.

1.2 The Professional Liability policy must:

- (A) Include “**errors and omissions**” coverage or “**malpractice**” coverage;
- (B) Afford “**practice specific**” or “**project specific**” coverage;
- (C) Provide limits of liability in an amount not less than:
  - (1) ONE MILLION DOLLARS (\$1,000,000) per claim; and
  - (2) TWO MILLION DOLLARS (\$2,000,000) in the aggregate;
- (D) Cover a claim or claims arising out of the performance of professional services by:
  - (1) CONSULTANT;
  - (2) CONSULTANT's Subconsultant(s);
  - (3) Anyone whom CONSULTANT or its Subconsultant(s) directly or indirectly employs or uses; or
  - (4) Anyone whose acts CONSULTANT or its Subconsultant(s) may be liable; and
- (E) Provide coverage for:
  - (1) The duration of this Agreement; and
  - (2) At least three (3) years after the Project's completion:
    - (a) CONSULTANT shall obtain, pay for, and maintain an endorsement that adds an “extended reporting period” (“ERP”) or a “discovery” feature— to allow CITY to report a claim— for a period of not less than three (3) years following the initial policy's expiration, or following CITY's recordation of its “notice of completion” for the Project, whichever date is later. The endorsement for the ERP or discovery feature must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above; or
    - (b) CONSULTANT shall obtain, pay for, and maintain successive renewal or replacement policies (with “prior acts” coverage), for a period of three (3)

years following the initial policy's expiration, or following CITY's recordation of its "notice of completion" for the Project, whichever date is later. Each policy must have a "retroactive date" that coincides with, or is earlier than, this Agreement's Effective Date. Additionally, each policy must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above.

**1.3** All ERP or discovery endorsements, renewal policies, and replacement coverage policies are subject to CITY's review and approval, in its sole discretion.

**1.4** CONSULTANT shall pay the full amount of all deductibles and any self-insured retention per claim for coverage under the Professional Liability insurance policy.

## **INSURANCE REQUIREMENTS PROFESSIONAL SERVICES AGREEMENT**

### **“WORKERS’ COMPENSATION” INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— for the duration of this Agreement:

- (A) Complete Workers’ Compensation insurance, meeting or exceeding the coverages and amounts that California law requires; and
- (B) Employer’s Liability insurance in an amount not less than:
  - (1) ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury or disease;
  - (2) ONE MILLION DOLLARS (\$1,000,000) per employee for bodily injury or disease;
  - and
  - (3) ONE MILLION DOLLARS (\$1,000,000) policy limit.

**1.2** CONSULTANT shall provide CITY with a “***certificate of insurance***”— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, this Agreement’s workers’ compensation insurance requirements.

**1.3** CITY shall not be liable to CONSULTANT’s personnel, or anyone CONSULTANT directly or indirectly employs or uses, for a claim at law or in equity arising out of CONSULTANT’s failure to comply with this Agreement’s workers’ compensation insurance requirements.

## **INSURANCE REQUIREMENTS PROFESSIONAL SERVICES AGREEMENT**

### **“COMMERCIAL GENERAL LIABILITY” OR “BUSINESSOWNERS LIABILITY” INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a “Commercial General Liability” or a “Businessowners Liability” insurance policy on an **occurrence** basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, personal and advertising injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives (collectively, “CITY AND ITS REPRESENTATIVES”) as **additional insureds**

**1.2** Coverage afforded to CITY AND ITS REPRESENTATIVES must be at least as broad as that afforded to CONSULTANT. If CONSULTANT has higher limits than the limits specified in these insurance requirements, or has additional broader coverage, or has both, the insurer shall make available the higher limits and broader coverage to CITY AND ITS REPRESENTATIVES. The insurance must be written for the limits of liability specified below:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for bodily injury (including accidental death) to any one person;
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for personal and advertising injury to any one person;
- (C) ONE MILLION DOLLARS (\$1,000,000) per occurrence, or the full per occurrence limits of the policy— whichever limit is greater— for property damage; and
- (D) TWO MILLION DOLLARS (\$2,000,000) general aggregate limit, or the full aggregate limits of the policy— whichever limit is greater.

**1.3** The liability insurance must include all major divisions of coverage and must cover:

- (A) Premises Operations (including Explosion, Collapse, and Underground [“X,C,U”] coverages as applicable);
- (B) Independent Contractors’ Protective Liability;
- (C) Products and Completed Operations (maintain same limits as above until five (5) years after recordation of Notice of Completion);
- (D) Personal and Advertising Injury (with Employer’s Liability Exclusion deleted);
- (E) Contractual Liability; and
- (F) Broad Form Property Damage.

1.4 CONSULTANT shall provide CITY with a “**certificate of insurance**,” an “**additional insured endorsement**,” and a subrogation endorsement, “**Waiver of Transfer to Rights of Recovery Against Others**”— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The “certificate of insurance” and an “additional insured endorsement” must state:

“The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City’s insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage.”

## **INSURANCE REQUIREMENTS PROFESSIONAL SERVICES AGREEMENT**

### **“BUSINESS AUTOMOBILE” LIABILITY INSURANCE**

**1.1** At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a “Business Automobile” insurance policy on an occurrence basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, property damage, and medical payments. The policy must add the City of Glendale and its officers, agents, employees, and representatives as additional insureds.

**1.2** The insurance must not be written for less than the limits of liability specified below or required by law, whichever coverage amount is greater:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury (including accidental death) to any one person; and
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence for property damage; or
- (C) TWO MILLION DOLLARS (\$2,000,000) combined single limit (“CSL”).

**1.3** The liability insurance must include all major divisions of coverage and must cover all vehicles, whether rented, leased, hired, scheduled, owned or non-owned.

**1.4** CONSULTANT shall provide CITY with a “*certificate of insurance*” and an “*additional insured endorsement*”— on forms satisfactory to the City Attorney or City’s Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

**1.5** The “certificate of insurance” and an “additional insured endorsement” must state:

“The City of Glendale, and its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City’s insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage.”



## **INSURANCE REQUIREMENTS PROFESSIONAL SERVICES AGREEMENT**

### **GENERAL REQUIREMENTS**

**1.1** At all times, the insurance company issuing the policy must meet all three of these requirements:

- (A) It must be “admitted” insurer by the State of California Department of Insurance or must be listed on the California Department of Insurance’s “List of Approved Surplus Line Insurers” (“LASLI”);
- (B) It must be domiciled within, and organized under the laws of, a State of the United States; and
- (C) It must carry a minimum A.M. Best Company Financial Strength Rating of “A:VII,” or better.

**1.2** If the Agreement requires any of the foregoing insurance coverages to remain in force after the Final Payment, and if they are reasonably available, CONSULTANT shall submit to CITY— with the final Application for Payment— all certificates and additional insured endorsements evidencing the coverages’ continuation.

**1.3** A deductible or self-insured retention is subject to CITY’s review and approval, in its sole discretion. The insurance company or its authorized representative must state either on the insurance certificate or in a separate correspondence:

- (A) The amount of the deductible, or self-insured retention, or both;
- (B) Whether a limit of insurance has been lowered by any pending or paid claim; and
- (C) The current limit amount, as lowered by the pending or paid claim.

**1.4** Despite any conflicting or contrary provision in CONSULTANT’s insurance policy:

- (A) If CONSULTANT’s insurance company adds CITY, and its officers, agents, employees, and representatives (collectively, “its representatives”) as additional insureds, then for all acts, errors, or omissions of CITY, or its representatives, or both, that insurer shall:
  - (1) Pay those sums that CITY, or its representatives, or both, become legally obligated to pay as damages; and
  - (2) Defend— and pay the costs of defending— CITY, or its representatives, or both;
- (B) CONSULTANT’s insurance is primary;
- (C) Other insurance (whether primary, excess, contingent or self-insurance, or any other basis) available to CITY, or its representatives, or both, is excess over CONSULTANT’s insurance;

- (D) CITY's insurance, or self-insurance, or both, will not contribute with CONSULTANT's insurance policy;
- (E) CONSULTANT and CONSULTANT's insurance company waive—and shall not exercise—any right of recovery or subrogation that CONSULTANT or the insurer may have against CITY, or its representatives, or both;
- (F) CONSULTANT's insurance policy applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or suit is brought, except that the naming of multiple insureds will not increase an insurance company's limits of liability;
- (G) CONSULTANT's insurance policy applies to a claim or suit brought by an additional insured against a Named Insured or other insured, arising out of bodily injury, personal injury, advertising injury, or property damage; and
- (H) CITY is not liable for a premium payment or another expense under CONSULTANT's policy.

**1.5** At any time during the duration of this Agreement, CITY may do any one or more of the following:

- (A) Review this Agreement's insurance coverage requirements; or
- (B) Require that CONSULTANT:
  - (1) Obtain, pay for, and maintain more or less insurance depending on CITY's assessment of any one or more of the following factors:
    - (a) CITY's risk of liability or exposure arising out of, or in any way connected with, the services of CONSULTANT under this Agreement;
    - (b) The nature or number of accidents, claims, or lawsuits arising out of, or in any way connected with, the services of CONSULTANT under this Agreement; or
    - (c) The availability, or affordability, or both, of increased liability insurance coverage;
  - (2) Reduce or eliminate a deductible or self-insured retention as it applies to CITY; or
  - (3) Obtain, pay for, and maintain a bond (as a replacement for an insurance coverage) from a California corporate surety, guaranteeing payment to CITY for liability, or costs, or both, that CITY incurs during CITY's investigation, administration, or defense of a claim or a suit arising out of this Agreement.

**1.6** CONSULTANT shall maintain the insurance policy without interruption, from the Project's commencement date to the Final Payment date, or until a date that CITY specifies for any coverage that CONSULTANT must maintain after the Final Payment.

**1.7** CONSULTANT's insurance company or self-insurance administrator shall mail CITY written notice at least thirty (30) days in advance of the policy's or the self-insurance program's cancellation, termination, non-renewal, or reduction in coverage.

**1.8** CONSULTANT shall not allow any insurance to expire, cancel, terminate, lapse, or non-renew. Twenty-one (21) days before its insurance policy's expiration, cancellation, termination, or non-renewal, CONSULTANT shall deliver to CITY evidence of the required coverage as proof that CONSULTANT's insurance policy has been renewed or replaced with another insurance policy which, during the duration of this Agreement, meets all of this Agreement's insurance requirements.

**1.9** At any time, upon CITY's request, CONSULTANT shall furnish satisfactory proof of each type of insurance coverage required—including a certified copy of the insurance policy or policies; certificates, endorsements, renewals, or replacements; and documents comprising CONSULTANT's self-insurance program—all in a form and content acceptable to the City Attorney or City's Risk Manager.

**1.10** If CONSULTANT hires, employs, or uses a Subconsultant to perform work, services, operations, or activities on CONSULTANT's behalf, CONSULTANT shall ensure that the Subconsultant:

- (A) Meets, and fully complies with, this Agreement's insurance requirements;
- (B) Delivers to CITY—for its review, or approval, or both—all insurance policies, certificates, and endorsements that this Agreement requires; and
- (C) Furnishes CITY, at any time upon its request, with a complete copy of the Subconsultant's insurance policy or policies for CITY's review, or approval, or both.

**1.11** CONSULTANT's failure to comply with an insurance provision in this Agreement constitutes a breach upon which CITY may immediately terminate or suspend CONSULTANT's performance of this Agreement, or invoke another remedy that this Agreement or the law allows. At its discretion, CITY may obtain or renew the insurance, and CITY may pay all or part of the premiums. Upon demand, CONSULTANT shall repay CITY for all sums or monies that CITY paid to obtain, renew, or reinstate the insurance, or CITY may offset the cost of the premium against any sums or monies that CITY may owe CONSULTANT.

**INSURANCE REQUIREMENTS**  
**PROFESSIONAL SERVICES AGREEMENT**

**CONSULTANT'S SUBMITTAL OF CERTIFICATES AND ENDORSEMENTS**

1.1 CONSULTANT shall have its insurance carrier(s) or self-insurance administrator(s) complete and execute the following insurance documents, unless an exception below applies. When CONSULTANT signs and delivers the Agreement to CITY, CONSULTANT also shall deliver:

- (A) A "certificate of insurance" for each required liability insurance coverage;
- (B) Additional Insured Endorsement for "General Liability/Automobile Liability", unless this Agreement does not require CONSULTANT to obtain and maintain Commercial General Liability coverage, Businessowners Liability coverage, or Automobile Liability coverage;
- (C) A subrogation endorsement, "**Waiver of Transfer to Rights of Recovery Against Others**," for Commercial General Liability coverage or Businessowners Liability coverage;
- (D) A "certificate of insurance" for Workers' Compensation insurance; or  
If CONSULTANT is self-insured for workers' compensation, a copy of the "Certificate of Consent to Self-insure" from the State of California; or  
If CONSULTANT is lawfully exempt from workers' compensation laws, an "Affirmation of Exemption from Labor Code §3700" form;
- (F) A complete copy of CONSULTANT's Professional Liability insurance policy, including all forms and endorsements attached to it.

1.2 CITY will neither sign this Agreement nor issue a "Notice to Proceed" until the City Attorney or City's Risk Manager has reviewed and approved the insurance documents. CITY's decision as to the acceptability of all insurance documents is final. Unless CONSULTANT obtains CITY's written approval, CITY will not permit or allow a substitution of an insurance policy, or a change in a certificate's or an endorsement's form and content, or both

**INSURANCE OBLIGATION IS SEPARATE FROM INDEMNITY OBLIGATION**

2.1 This Agreement's insurance provisions:

- (A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and
- (B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.